

## § 79.57

- (1) Pathology report of tissue biopsy or resection;
- (2) Autopsy report;
- (3) One of the following summary medical reports:
  - (i) Physician summary report;
  - (ii) Hospital discharge summary report;
  - (iii) Operative report;
  - (iv) Radiotherapy summary report;or
- (v) Medical oncology summary or consultation report;
- (4) Report of one of the following radiology examinations:
  - (i) Computerized tomography (CT) scan; or
  - (ii) Magnetic resonance imaging (MRI); or
- (5) Death certificate, provided that it is signed by a physician at the time of death.

### § 79.57 Proof of chronic renal disease.

(a) In determining whether a claimant developed chronic renal disease following pertinent employment as a miller, the Assistant Director shall resolve all reasonable doubt in favor of the claimant. A conclusion that a claimant developed chronic renal disease must be supported by medical documentation.

(b) A claimant or beneficiary may submit any of the following forms of medical documentation in support of a claim that the claimant contracted chronic renal disease.

- (1) Pathology report of tissue biopsy;
- (2) If laboratory or radiographic tests exist:
  - (i) Abnormal plasma creatinine values; and
  - (ii) Abnormal glomerular filtration rate (by either measured creatinine or iothalamate clearance or calculated by MDRD equation); and
  - (iii) Renal tubular dysfunction as evidenced by:
    - (A) Glycosuria in the absence of diabetes mellitus;
    - (B) Proteinuria less than one gram daily without other known etiology; or
    - (C) Hyperphosphaturia, aminoaciduria, B-2 microglobulinuria or alkaline phosphaturia or other marker of proximal tubular injury; or
- (iv) Radiographic evidence of chronic renal disease;

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- (3) Autopsy report;
- (4) Physician summary report;
- (5) Hospital discharge summary report;
- (6) Hospital admitting report; or
- (7) Death certificate, provided that it is signed by a physician at the time of death.

### Subpart G—Eligibility Criteria for Claims by Ore Transporters

#### § 79.60 Scope of subpart.

The regulations in this subpart define the eligibility criteria for compensation under section 5 of the Act pertaining to uranium or vanadium-uranium ore transporters and the nature of evidence that will be accepted as proof that a claimant satisfies such eligibility criteria. Section 5 of the Act provides for a payment of \$100,000 to persons who contracted lung cancer, one of a limited number of nonmalignant respiratory diseases, renal cancer, or chronic renal disease, following employment for at least one year as a transporter of uranium ore or vanadium-uranium ore from a uranium mine or uranium mill located in a specified state during the period beginning January 1, 1942, and ending December 31, 1971.

#### § 79.61 Definitions.

(a) *Chronic renal disease* means the chronic, progressive, and irreversible destruction of the nephron. It is exhibited by diminution of renal function.

(b) *Cor pulmonale* means heart disease, including hypertrophy of the right ventricle, due to pulmonary hypertension secondary to fibrosis of the lung.

(c) *Designated time period* means the period beginning on January 1, 1942, and ending on December 31, 1971.

(d) *Employment as an ore transporter* means employment involving the transporting or hauling of uranium ore or vanadium-uranium ore from a uranium mine or uranium mill, including the transportation or hauling of ore from an ore buying station, “upgrader,” “concentrator” facility, or pilot plant by means of truck, rail or barge.

(e) *Employment for at least one year* means employment for a total of at

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least one year (12 consecutive or cumulative months).

(f) *Fibrosis of the lung or pulmonary fibrosis* means chronic inflammation and scarring of the pulmonary interstitium and alveoli with collagen deposition and progressive thickening.

(g) *Kidney tubal (tubular) tissue injury* means structural or functional damage to the kidney tubules that results in renal disease and dysfunction.

(h) *National Institute for Occupational Safety and Health (NIOSH) certified "B" reader* means a physician who is certified as such by NIOSH. A list of certified "B" readers is available from the Radiation Exposure Compensation Program upon request.

(i) *Nephritis* means an inflammatory process of the kidneys resulting in chronic renal dysfunction.

(j) *Nonmalignant respiratory disease* means fibrosis of the lung, pulmonary fibrosis, cor pulmonale related to fibrosis of the lung, silicosis, and pneumoconiosis.

(k) *Pneumoconiosis* means a chronic lung disease resulting from inhalation and deposition in the lung of particulate matter, and the tissue reaction to the presence of the particulate matter. For the purposes of this Act, the claimant's exposure to the particulate matter that led to the disease must have occurred during employment as an ore transporter.

(l) *Primary lung cancer* means any physiological condition of the lung, trachea, or bronchus that is recognized under that name or nomenclature by the National Cancer Institute. The term includes in situ lung cancers.

(m) *Readily available documentation* means documents in the possession, custody, or control of the claimant or an immediate family member.

(n) *Primary renal cancer* means any physiological condition of the kidneys that is recognized under that name or nomenclature by the National Cancer Institute.

(o) *Silicosis* means a pneumoconiosis due to the inhalation of the dust of stone, sand, flint or other materials containing silicon dioxide, characterized by the formation of pulmonary fibrotic changes.

(p) *Specified state* means Colorado, New Mexico, Arizona, Wyoming, South

Dakota, Washington, Utah, Idaho, North Dakota, Oregon, or Texas. Additional states may be included, provided:

(1) A uranium mine was operated in such state at any time during the period beginning on January 1, 1942, and ending on December 31, 1971;

(2) The state submits an application to the Assistant Director (specified in § 79.70(a)) to include such state; and

(3) The Assistant Director makes a determination to include such state.

(q) *Uranium mill* means any milling operation involving the processing of uranium ore or vanadium-uranium ore, including carbonate plants and acid leach plants. The term applies to ore-buying stations where ore was weighed and sampled prior to delivery to a mill for processing; "upgrader" or "concentrator" facilities located at the mill or at a remote location where uranium or vanadium-uranium ore was processed prior to delivery to a mill; and pilot plants where uranium ore or vanadium-uranium ore was processed.

(r) *Uranium mine* means any underground excavation, including "dog holes," as well as open-pit, strip, rim, surface, or other aboveground mines, where uranium ore or vanadium-uranium ore was mined or otherwise extracted.

(s) *Written diagnosis by a physician* means a written determination of the nature of a disease made from a study of the signs and symptoms of a disease that is based on a physical examination of the patient, medical imaging or a chemical, microscopic, microbiologic, immunologic, or pathologic study of physiologic and functional tests, secretions, discharges, blood, or tissue. For purposes of satisfying the requirement of a "written diagnosis by a physician" for living claimants specified in § 79.65, a physician submitting a written diagnosis of a nonmalignant respiratory disease must be employed by the Indian Health Service or the Department of Veterans Affairs or be board certified, and must have a documented, ongoing physician-patient relationship with the claimant. An "ongoing physician-patient relationship" can include referrals made to specialists from a primary care provider for purposes of diagnosis or treatment.

“Board certification” requires, in addition to physician licensing, the successful completion of a residency training program and passage of a Board exam in a relevant field or specialty. Relevant specialties include: family practice, internal medicine, pathology, preventive medicine, radiology, surgery, and thoracic surgery (and including subspecialties such as cardiovascular disease, medical oncology, pulmonary disease) as listed by the American Board of Medical Specialties.

**§ 79.62 Criteria for eligibility for claims by ore transporters.**

To establish eligibility for compensation under this subpart, a claimant or eligible surviving beneficiary of a claimant must establish each of the following:

- (a) The claimant was employed as an ore transporter in a specified state;
- (b) The claimant was so employed for at least one year (12 consecutive or cumulative months) during the period beginning on January 1, 1942, and ending on December 31, 1971; and
- (c) The claimant contracted primary lung cancer, a nonmalignant respiratory disease, primary renal cancer, or chronic renal disease (including nephritis and kidney tubal tissue injury) following at least one year of such employment.

**§ 79.63 Proof of employment as an ore transporter.**

(a) The Department will accept, as proof of employment for the time period indicated, information contained in any of the following records:

- (1) Records created by or gathered by the Public Health Service (PHS) in the course of any health studies of uranium workers during or including the period 1942–1990;
  - (2) Records of a uranium worker census performed by the PHS at various times during the period 1942–1990;
  - (3) Records of the Atomic Energy Commission (AEC), or any of its successor agencies; and
  - (4) Records of federally supported, health-related studies of uranium workers.
- (b) The employment history for the time period indicated in such records will be presumed to be correct. If the

claimant or eligible surviving beneficiary wishes to contest the accuracy of such records, then the claimant or eligible surviving beneficiary may provide one or more of the records identified in paragraph (c) of this section, and the Assistant Director will determine whether the employment history indicated in the records listed in paragraph (a) of this section is correct.

(c) If the sources in paragraph (a) of this section do not contain information regarding the claimant’s ore transporting employment history, do not contain sufficient information to establish employment for at least one year as an ore transporter during the specified time period to qualify under § 79.62(b), or if a claimant or eligible surviving beneficiary wishes to contest the accuracy of such records, then the claimant or eligible surviving beneficiary may submit records from any of the following sources, which the Assistant Director shall consider (in addition to any sources listed in paragraph (a) of this section) in order to determine whether the claimant has established the requisite employment history:

- (1) Records of any of the specified states, including records of state regulatory agencies, containing information on uranium ore transporters and ore-transporting companies;
- (2) Records of any business entity that owned or operated an ore-transporting company, or its successor-in-interest;
- (3) Records of the Social Security Administration reflecting the identity of the employer, the years and quarters of employment, and the wages received during each quarter;
- (4) Federal or state income tax records that contain relevant statements regarding the claimant’s employer and wages;
- (5) Records containing factual findings by any governmental judicial body, state worker’s compensation board, or any governmental administrative body adjudicating the claimant’s rights to any type of benefits (which will be accepted only to prove the fact of and duration of employment as an ore transporter);